

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TERRENCE J. HANCOCK, WILLIAM LOGAN, JOHN)
LISNER, DEAN H. VANDER BAAN, LAWRENCE GROOT,)
and THOMAS YONKER as Trustees of LOCAL No. 731,)
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,)
PRIVATE SCAVENGERS HEALTH & WELFARE FUND,)
)
and) Case No. 08 C 2411
)
TERRENCE J. HANCOCK, WILLIAM LOGAN, JOHN)
LISNER, STEVE VOGRIN, THOMAS YONKER, and BRAD)
WEBB as Trustees of LOCAL No. 731, INTERNATIONAL) Judge Der-Yeghiayan
BROTHERHOOD OF TEAMSTERS, PRIVATE)
SCAVENGERS AND GARAGE ATTENDANTS PENSION)
FUND,) Magistrate Judge Mason
)
Plaintiffs,)
)
v.)
)
CONTINENTAL DISPOSAL LLC,)
)
Defendant.)

MOTION FOR ENTRY OF DEFAULT

Plaintiffs TERRENCE J. HANCOCK, WILLIAM LOGAN, JOHN LISNER, DEAN H. VANDER BAAN, LAWRENCE GROOT, and THOMAS YONKER as Trustees of LOCAL No. 731, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, PRIVATE SCAVENGERS HEALTH & WELFARE FUND (“Welfare Fund”) and TERRENCE J. HANCOCK, WILLIAM LOGAN, JOHN LISNER, STEVE VOGRIN, THOMAS YONKER and BRAD WEBB as Trustees of LOCAL No. 731, INTERNATIONAL BROTHERHOOD of TEAMSTERS PRIVATE SCAVENGERS AND GARAGE ATTENDANTS PENSION FUND (“Pension Fund”) (collectively, “the Funds”), through their attorneys Dowd, Bloch & Bennett, pursuant to Federal Rule of Civil Procedure 55(a), respectfully move this court for entry of default, in the form of the attached

proposed order, against Defendant CONTINENTAL DISPOSAL LLC (hereinafter “Defendant Company”). In support of this motion, Plaintiffs state as follows:

1. This action is a claim for delinquent reports and contributions due to employee fringe benefit funds under Section 515 of ERISA, 29 U.S.C. §1145.
2. The Funds filed a Complaint on April 28, 2008, seeking the following from the Defendant Company:
 - (a) That judgment be entered in favor of Plaintiffs and against Defendant ordering it to pay Plaintiffs all delinquent contributions, interest, liquidated damages and attorneys’ fees;
 - (b) That Defendant Company be ordered to pay all costs and reasonable attorneys’ fees incurred by the Funds in connection with this suit.
 - (c) For such other legal or equitable relief as the Court deems just and proper.
3. Defendant Company was served with the Complaint and Summons on April 30, 2008. Return of Service was filed with the Clerk of the Court on May 7, 2008. (Exhibit “A”)
4. As of the date this Motion was filed, Defendant Company had not filed an appearance or answer or otherwise plead to the Complaint.
5. Defendant Company has failed to submit monthly contribution reports and payments to the Funds for the months of January 2008 through the present.
6. Despite demands made by the Funds, the Defendant Company has refused to submit payment or reports to the Funds.

WHEREFORE, for the reasons stated above, Plaintiffs respectfully request this Court

enter an order of default against CONTINENTAL DISPOSAL LLC, in the form provided in the attached proposed order and request that the Court set this matter for a prove-up hearing with respect to the relief sought following the submission of contribution and dues reports.

Respectfully Submitted,

s/Steven W. Jados
Steven W. Jados
One of Plaintiffs' Attorneys

J. Peter Dowd
Michele M. Reynolds
LaKisha M. Kinsey-Sallis
Steven W. Jados
DOWD, BLOCH & BENNETT
8 South Michigan Avenue, 19th Floor
Chicago, Illinois 60603
(312) 372-1361

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SUMMONS IN A CIVIL CASE

08 C 2411

TERRENCE J. HANCOCK, WILLIAM LOGAN,
JOHN LISNER, DEAN H. VANDER BAAN,
LAWRENCE GROOT, and THOMAS YONKER as
Trustees of LOCAL No. 731, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, PRIVATE
SCAVENGERS HEALTH AND WELFARE FUND,
and TERRENCE J. HANCOCK, WILLIAM LOGAN,
JOHN LISNER, STEVE VOGRIN, THOMAS YONKER,
and BRAD WEBB as Trustees of LOCAL No. 731,
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
PRIVATE SCAVENGERS AND GARAGE
ATTENDANTS PENSION FUND,

Docket Number:

Assigned Judge:

**JUDGE DER-YEGHAYAN
MAGISTRATE JUDGE MASON**

Plaintiffs,

v.

Designated
Magistrate Judge:

CONTINENTAL DISPOSAL LLC,

Defendant.

TO: CONTINENTAL DISPOSAL LLC
c/o Richard Indyke, Registered Agent
221 North LaSalle Street, Suite 1200
Chicago, IL 60601

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY:

Steven W. Jados
Dowd, Bloch & Bennett
8 South Michigan Avenue, 19th Floor
Chicago, IL 60603

an answer to the complaint which is herewith served upon you, within **twenty (20)** days after service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Michael W. Dobbins, Clerk

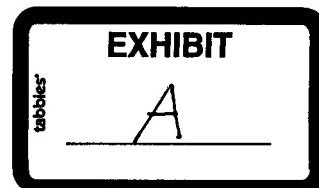
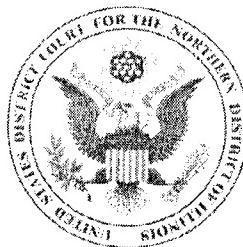
Date

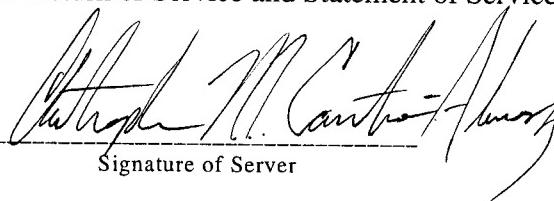
Yvette M. McKey

(By) DEPUTY CLERK

April 28, 2008

Date



| RETURN OF SERVICE | | |
|--|----------|-----------------------|
| Service of the Summons and Complaint was made by me. | | DATE: <u>4. 30.08</u> |
| NAME OF SERVER (PRINT) <u>CHRISTOPHER M. CANTERO-ALVAREZ</u> | | TITLE <u>CLERK</u> |
| <i>Check one box below to indicate appropriate method of service-</i> | | |
| <input type="checkbox"/> Served personally upon the defendant. Place where served: _____ _____ <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: _____ _____ <input type="checkbox"/> Returned unexecuted: _____ _____ <input checked="" type="checkbox"/> Other (specify): <u>LARRY S. PLAISTER - SERVED UPON THE PREVIOUSLY NAMED SECRETARY</u> _____ | | |
| STATEMENT OF SERVICES FEES | | |
| TRAVEL | SERVICES | TOTAL |
| DECLARATION OF SERVER | | |
| <p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on <u>4.30.08</u>  Date _____ Signature of Server _____</p> <p><u>85. MICHIGAN AVE - Chicago, IL 60603</u> Address of Server _____</p> | | |

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LISNER, STEVE VOGRIN, THOMAS YONKER, and BRAD)
WEBB as Trustees of LOCAL No. 731, INTERNATIONAL) **Judge Der-Yeghiayan**
BROTHERHOOD OF TEAMSTERS, PRIVATE)
SCAVENGERS AND GARAGE ATTENDANTS PENSION)
FUND,) **Magistrate Judge Mason**
)
Plaintiffs,)
)
v.)
)
CONTINENTAL DISPOSAL LLC,)
)
Defendant.)**

ORDER OF DEFAULT

This matter coming before the Court on Plaintiffs' Motion for Entry of Default, the Court being fully apprised on the premises, IT IS HEREBY ORDERED:

1. An Order of Default is entered against Defendant CONTINENTAL DISPOSAL LLC for its failure to answer or otherwise plead to the Complaint served upon it.
2. CONTINENTAL DISPOSAL LLC shall submit all completed and accurate work reports to the Plaintiff Funds for the period covering January 2008 through the present within 10 days of the date of this Order;

3. CONTINENTAL DISPOSAL LLC shall pay to Plaintiffs all amounts determined to be owed based on the completed work reports, including contributions, interest, liquidated damages and reasonable attorneys' fees and costs incurred in the prosecution of this action as provided in the Agreement, the Trust Agreements, and under applicable provisions of ERISA, as amended, including 29 U.S.C. Sec. 1132(g)(2)(D);

IT IS FURTHER ORDERED THAT:

4. This matter is set for a prove-up hearing for Plaintiffs' Motion for Entry of Default, with respect to certain amounts herein referenced, on _____, 2008 at _____ A.M.
5. Plaintiffs are directed to service written notice of this order on the Defendant.

Entered By:

Honorable Judge Samuel Der-Yeghiayan

Date: _____

CERTIFICATE OF SERVICE

I, Steven W. Jados, hereby certify that I have caused to be served the attached Notice of Motion, Plaintiffs' Motion for Entry of Default, and proposed order by having copies sent by fax and mail to the address and fax number below on May 21, 2008 before 5:00 p.m.

CONTINENTAL DISPOSAL LLC
c/o Richard Indyke, Registered Agent
221 North LaSalle Street, Suite 1200
Chicago, IL 60601
Fax: (312) 332-3920

s/Steven W. Jados
Steven W. Jados
One of Plaintiffs' Attorneys